

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

CEMENT MASONS LOCAL 527, et al,	)	
	)	
Plaintiffs,	)	Case No. 4:17-cv-1764 SNLJ
	)	
v.	)	
	)	
S & C CONCRETE, LLC,	)	
	)	
Defendant.	)	

**ORDER**

Plaintiffs, the Cement Masons Local 527 benefit funds and the Trustees thereof, bring this action pursuant to the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. §1132 seeking to collect from defendant S & C Concrete, LLC, delinquent fringe benefit contributions, liquidated damages, court costs and attorneys' fees. Suit was filed in this matter on June 20, 2017. Defendant was served with the summons and complaint on August 18, 2017 and has not responded.

Plaintiffs have established that defendant was party to a collective bargaining agreement which required monthly contributions to the Cement Masons Funds, and which required the payment of 10% liquidated damages on contributions which are not paid by the due date. The agreement also required the payment of attorneys' fees and court costs.

Plaintiffs have established through the Affidavit of Kurt E. Dierkes that at the time suit was filed, defendant had not submitted the required contributions for April and May 2017. While these contributions were subsequently paid, they were paid late, and therefore liquidated damages are owed. While suit was pending, defendant's contributions became delinquent for June 2017. While these contributions were ultimately paid, liquidated damages for that month were owed as well. The amount owed for liquidated damages for April, May and June 2017 totals \$3,449.58.

Plaintiffs have also established that defendant has not submitted reports or contributions for July 2017 to the present. Without the reports, plaintiffs cannot determine the amounts owed by defendant. ERISA at 29 U.S.C. §1132(g)(2)(E) authorizes this Court to provide for equitable relief.

Plaintiffs have also submitted the Affidavit of Greg A. Campbell which reflects that plaintiffs have incurred attorneys' fees of \$430.50 and court costs of \$770.03.

WHEREFORE, judgment is entered in favor of plaintiffs and against defendant in the amount of \$4,650.11, consisting of \$3,449.58 in liquidated damages for April, May and June 2017, and \$1,200.53 in attorneys' fees and court costs.

IT IS FURTHER ORDERED that defendant submit its reports for the period of July 2017 to the present so that plaintiffs can determine the amounts owed for this period.

Dated this 30th day of November, 2017.

**SO ORDERED:**

  
UNITED STATES DISTRICT COURT JUDGE